

ANTRELL TEEN,

Plaintiff,

vs.

COOK,

Defendant.

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Case No. 18-cv-0993-JPG

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27 (7th Cir. 2000). An action fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The claim of entitlement to relief must cross “the line between possibility and plausibility.” *Id.* at 557. At this juncture, the factual allegations of the *pro se* complaint are to be liberally construed. *See Rodriguez v. Plymouth Ambulance Serv.*, 577 F.3d 816, 821 (7th Cir. 2009).

Upon careful review of the Complaint and any supporting exhibits, the Court finds it appropriate to exercise its authority under § 1915A; this action is subject to summary dismissal.

The Complaint

Plaintiff originally brought this action as part of his claims in Case 18-cv-568-JPG-RJD (“18-568”). On April 19, 2018, the Court found that not all of the claims in that action were sufficiently related pursuant to Fed. R. Civ. P. 18 and 20 so as to proceed in a single action, and severed claims accordingly. (Doc. 1).

Plaintiff alleges the following with regards to the claim present in this lawsuit: “Sgt Cook informed me the law library was down and the following day I noticed another inmate using the computer in the law library.” (Doc. 2, p. 6). Plaintiff alleges that this conduct was in retaliation for “seeking redress.” *Id.*

Discussion

The Court previously designated a single claim to proceed in this action:

Count 5 – First Amendment retaliation claim against Cook, for denying Plaintiff access to the law library, after Plaintiff attempted to file case(s) in court while Plaintiff was housed on AB-Block.

To succeed on a First Amendment Retaliation claim, a plaintiff must prove 1) that he engaged in conduct protected by the First Amendment; 2) that he suffered a deprivation that

would likely deter First Amendment activity in the future; and 3) that the protected conduct was a “motivating factor” for taking the retaliatory action. *Bridges v. Gilbert*, 557 F.3d 541, 546 (7th Cir. 2009).

Plaintiff’s bare-bones allegation does not make it plausible that he has suffered retaliation. It is not clear from the Complaint what specific act drew the alleged retaliation. Although Plaintiff alleged he sought redress, it is unclear exactly what he means by this and what protected conduct it references. Plaintiff has also not affirmatively alleged that Cook knew about his activity, making it implausible that the activity was the motivating factor for denying Plaintiff law library access. It is also ambiguous whether Plaintiff suffered a deprivation; although he has alleged that he was told the law library was down one day, he has not alleged how long he was prevented from using it. At this stage, the Complaint will be dismissed without prejudice for failure to state a claim.

Disposition

IT IS HEREBY ORDERED that the Complaint is **DISMISSED without prejudice** for failure to state a claim.

IT IS FURTHER ORDERED that, should he wish to proceed with this case, Plaintiff shall file his First Amended Complaint, stating any facts which may exist to support his retaliation claim (on or before **August 9, 2018**). An amended complaint supersedes and replaces the original complaint, rendering the original complaint void. *See Flannery v. Recording Indus. Ass’n of Am.*, 354 F.3d 632, 638 n.1 (7th Cir. 2004). The Court will not accept piecemeal amendments to the original complaint. Thus, the First Amended Complaint must stand on its own, without reference to any other pleading. Should the First Amended Complaint not conform to these requirements, it shall be stricken. Plaintiff must also re-file any exhibits he wishes the

Court to consider along with the First Amended Complaint. Failure to file an amended complaint shall result in the dismissal of this action with prejudice. Such dismissal shall count as one of Plaintiff's three allotted "strikes" within the meaning of 28 U.S.C. § 1915(g).

Plaintiff is warned, however, that the Court takes the issue of perjury seriously, and that any facts found to be untrue in the Amended Complaint may be grounds for sanctions, including dismissal and possible criminal prosecution for perjury. *Rivera v. Drake*, 767 F.3d 685, 686 (7th Cir. 2014) (dismissing a lawsuit as a sanction where an inmate submitted a false affidavit and subsequently lied on the stand).

No service shall be ordered on any Defendant until after the Court completes its § 1915A review of the First Amended Complaint.

In order to assist Plaintiff in preparing his amended complaint, the Clerk is **DIRECTED** to mail Plaintiff a blank civil rights complaint form.

IT IS SO ORDERED.

DATED: July 12, 2018

s/J. Phil Gilbert
U.S. District Judge